

June 2, 2014

CERTIFIED MAIL-RECEIPT REQUESTED

Carmine Mandarano, M.D.

ADDRESS REDACTED

Re: License #150973

Dear Dr. Mandarano:

Enclosed is a copy of the New York State Board for Professional Medical Conduct (BPMC) Order No. 14-142. This Interim Order of Conditions is effective June 9, 2014.

Please direct any questions to: Board for Professional Medical Conduct, 90 Church Street, 4th Floor, New York, NY 10007-2919, telephone # 212-417-4445.

Sincerely,

Katherine A. Hawkins, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

cc: David A. Zarett, Esq.
Weiss, Zareh, Brofman & Sonnenklar, P.C.
33 New Hyde Park Road, Ste. 211
New Hyde Park, New York 11042

IN THE MATTER
OF
CARMINE MANDARANO, M.D.

INTERIM ORDER
OF CONDITIONS
PURSUANT TO
N.Y. PUB. HEALTH
LAW § 230

Upon the application of **CARMINE MANDARANO, M.D.** (Licensee), in the attached Stipulation and Application for an Interim Order of Conditions Pursuant to N.Y. Pub. Health Law § 230, which is made part of this Interim Order of Conditions Pursuant to N.Y. Pub. Health Law § 230, it is agreed that the Application, and its terms, are adopted; and this Order shall be effective upon issuance by the Board, either

- by mailing of a copy of this Order by first class mail to Licensee at the address in the attached Application or by certified mail to Licensee's attorney, or
- upon facsimile transmission to Licensee or License's attorney, whichever is first.

SO ORDERED.

DATE: 06/07/14

SIGNATURE REDACTED

CARMELA TORRELLI
Vice Chair
State Board for Professional Medical Conduct

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER
OF
CARMINE MANDARANO, M.D.

STIPULATION AND
APPLICATION
FOR AN INTERIM
ORDER OF
CONDITIONS
PURSUANT TO
N.Y. PUB. HEALTH
LAW § 230

CARMINE MANDARANO, M.D., represents that all of the following statements are true:

That on or about July 23, 1982, I was licensed to practice as a physician in the State of New York and issued License No. 150973 by the New York State Education Department.

My current address is [ADDRESS REDACTED]. I am affiliated with the following hospitals and/or facilities: Atlantic Healthcare, P.C., 281 East Main Street, East Islip, New York 11730.

I understand that the New York State Board for Professional Medical Conduct ("the Board") is investigating alleged misconduct by me, and may pursue a proceeding pursuant to N.Y. Pub. Health Law § 230 with respect to the issues set forth in attached Exhibit "A" ("matters under investigation").

I agree to the Board's issuance of an Interim Order of Conditions precluding me from practicing medicine in New York State except as specifically permitted under the conditions set forth below, and I agree to be bound by the Order, which shall continue in effect until:

- a determination by the Director of the Office of Professional Medical Conduct that no hearing is warranted; or
- the resolution by consent order of the matters under investigation; or
- issuance and service of a Hearing Committee's Determination and Order after the conclusion of a hearing held pursuant to a determination of the Commissioner of Health or the Director of the Office of Professional Medical Conduct. The Hearing Committee's Determination and Order shall replace this Interim Order of Conditions. If either party requests review by the Administrative Review Board, the Hearing Committee's Determination and Order, and any sanction, terms or conditions imposed upon me, shall remain in effect until the ARB renders its determination and shall, in the same manner as a Commissioner's Order pursuant to N.Y. Pub. Health Law § 230-c(4), not be subject to a stay.

I understand that nothing in this Application shall be construed as an admission by me of any fact, act of alleged misconduct or as a finding of misconduct as to the matters under investigation. My application for the proposed Interim Order is made in consideration of the value to me of the Board's allowing me to continue to provide explanation of the issues under investigation to the Office of Professional Medical Conduct ("OPMC") and, if the Board pursues disciplinary proceedings against me, to allow for additional preparation time. I deny any acts of misconduct and reserve my right to assert all defenses on my behalf in any later or other proceeding.

This Interim Order shall impose the following Conditions on me pursuant to N.Y.

Pub. Health Law § 230:

1. Licensee, in the practice of medicine, shall be
 - a. precluded from:
 - i. The practice of pain management and/or pain medicine;
 - ii. Ordering, prescribing, and/or administering controlled substances.
2. Licensee's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Licensee as defined in N.Y. Educ. Law §§ 6530 or 6531 shall constitute a violation of this Order and may subject Licensee to an action pursuant to N.Y. Pub. Health Law § 230.
3. Licensee shall provide the Director, Office of Professional Medical Conduct (OPMC), Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204-2719 with the following information, in writing, and ensure that this information is kept current: a full description of Licensee's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; all current and past affiliations and/or privileges, with hospitals, institutions, facilities, medical practices, managed care organizations, and/or applications for such affiliations and/or privileges; and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility. Licensee shall notify

OPMC, in writing, within 30 days of any additions to or changes in the required information.

4. Licensee shall cooperate fully with OPMC in its administration and enforcement of this Interim Order and in its investigation of Licensee. Licensee shall respond in a timely manner to all OPMC requests for written periodic verification of compliance with the terms of this Interim Order. Licensee shall meet in person with the Director's designee, as directed. Licensee shall respond promptly and provide all documents and information within Licensee's control, as directed. This condition shall take effect upon the effective date of the Interim Order and shall continue while Licensee possesses a license.
5. Licensee shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients.
6. The Director may review Licensee's professional performance. This review may include but shall not be limited to: a review of office records, patient records and/or hospital charts; and interviews with or periodic visits with Licensee and staff at practice locations or OPMC offices.
7. Licensee shall provide access for DOH personnel to Licensee's office(s) to verify Licensee's compliance with this Interim Order; this access shall include, but not be limited to, on-site inspections, observation and interviews.
8. Licensee shall comply with this Order and all its terms, and shall bear all associated compliance costs.

9. That for a period of three years from the Order's effective date, subject to the tolling provisions set forth below, Licensee shall be subject to additional conditions set forth as "Practice Conditions" enumerated in Exhibit "B", which is attached to and a part of this agreement.

I stipulate that:

My failure to comply with the Conditions imposed by this Interim Order shall constitute professional misconduct as defined in N.Y. Educ. Law § 6530(29); and

Any practice of medicine by me in New York State in violation of this Interim Order shall be unauthorized and constitute professional misconduct as defined in N.Y. Educ. Law § 6530(2); and

Unauthorized medical practice is a felony as defined in N.Y. Educ. Law § 6512.

I understand and agree that my failure to comply with any of the terms of this Interim Order shall authorize the Director, exercising reasonable discretion, to pursue further investigation and/or prosecution of misconduct charges against me as to any misconduct issues, including but not limited to those set forth in Exhibit "A", to the full extent authorized by N.Y. Pub. Health Law and N.Y. Educ. Law.

I agree that, if the Board grants this Application, the Chair of the Board shall issue an Interim Order of Conditions in accordance with its terms. I further agree that the Department of Health shall notify the National Practitioner Data Bank and the Federation of State Medical Boards of this Interim Order of Conditions pursuant to N.Y. Pub. Health Law § 230 and that the change in my licensure status is not disciplinary in nature. This Interim Order of Conditions shall be posted on the Department of Health website(s).



I make this Application of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's acceptance of this Application, I waive my right to contest the Interim Order for which I apply, whether administratively or judicially, I agree to be bound by the Interim Order, and I ask that the Board grant this Application.

I understand and agree that the attorney for the Department, the Director of the Office of Professional Medical Conduct and the Chair of the State Board for Professional Medical Conduct each retain complete discretion either to enter into the proposed agreement and Interim Order, based upon my Application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

DATE 5/21/14

SIGNATURE REDACTED

CARMINE MANDARANO, M.D.
Licensee

The undersigned agree to Licensee's attached Interim Order of Conditions and to its proposed terms and conditions.

DATE: 5/21/14

SIGNATURE REDACTED

~~DAVID A. ZARETT, ESQ.~~
Attorney for Licensee

DATE: May 22, 2014

SIGNATURE REDACTED

~~PAUL TSUI~~
Associate Counsel
Bureau of Professional Medical Conduct

DATE: 5/29/14

SIGNATURE REDACTED

~~FOY~~ KEITH W. SERVIS
Director
Office of Professional Medical Conduct

EXHIBIT "B"**PRACTICE CONDITIONS**

- 1) Licensee's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Licensee as defined in N.Y. Educ. Law §§ 6530 or 6531 shall constitute a violation of this Order and may subject Licensee to an action pursuant to N.Y. Pub. Health Law § 230.
- 2) Licensee shall adhere to federal and state guidelines and professional standards of care with respect to infection control practices. Licensee shall ensure education, training and oversight of all office personnel involved in medical care with respect to these practices.
- 3) Licensee shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients.
- 4) The Director may review Licensee's professional performance. This review may include but shall not be limited to: a review of office records, patient records, hospital charts and/or electronic records; and interviews or periodic visits with Licensee and staff at practice locations or OPMC offices.
- 5) Licensee shall provide access for DOH personnel to Licensee's office(s) to verify Licensee's compliance with this Order. This access shall include, but not be limited to, on-site inspections, observation and interviews.
- 6) Within 30 days of the Order's effective date, Licensee shall practice medicine only when monitored by a licensed physician, board-certified in an appropriate specialty

("practice monitor"), proposed by Licensee and subject to the written approval of the Director.

- a) Licensee shall make available to the practice monitor all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit Licensee's medical practice at every location on a random unannounced basis at least monthly and shall examine a selection of records (no fewer than twenty) maintained by Licensee, including patient records, prescribing information and office records, to determine whether the Licensee's medical practice is conducted in accordance with generally accepted standards of professional medical care. The practice monitor shall report to OPMC within 24 hours of any perceived deviation by Licensee from accepted standards of medical care or any refusal by Licensee to cooperate with the monitoring.
- b) Licensee shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
- c) Licensee shall cause the practice monitor to report quarterly, in writing, to the Director.
- d) Licensee shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with N.Y. Pub. Health Law § 230(18)(b). Licensee

shall provide the Director with proof of such coverage before Licensee may practice medicine after the effective date of this Order.

- 7) Licensee shall enroll in and complete a continuing education program in an area or in areas specified by the Office of Professional Medical Conduct. This continuing education program is subject to the Director's prior written approval and shall be completed within the first 90 days of the period of Conditions.
- 8) The period of Practice Conditions shall toll when Licensee is not engaged in active medical practice in New York State for 30 consecutive days or more. Licensee shall notify the Director, in writing, if Licensee is not currently engaged in or intends to leave active medical practice in New York State for 30 consecutive days or more and Licensee shall then notify the Director again at least 14 days before returning to active medical practice in New York State. Upon Licensee's return to active medical practice in New York State, the period of Practice Conditions shall resume and Licensee shall fulfill any unfulfilled terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in Exhibit "A" or as are necessary to protect the public health.
- 9) Licensee shall comply with this Order, and all its terms and Conditions, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with or violation of these terms, the Director and/or the Board may initiate a proceeding against Licensee under N.Y. Pub. Health Law § 230.